

housing finance reform. Ms. Gupta, as chairman of the Conference on Civil Rights, had a different opinion, but I always respected her intellect and her willingness to listen to alternative views and her willingness to really dig into the facts.

With that background as a civil rights leader in the thick of issues around policing, race, and criminal justice reform, she actually led the investigations of police departments in Ferguson, Chicago, and Baltimore.

At the same time, I have a long list of law enforcement groups that are supporting Ms. Gupta's nomination, including the National Fraternal Order of Police. Again, in terms of the FOP, I think in all my career, one time they endorsed me. Again, her receiving that endorsement is different than myself and perhaps even the Senator from Illinois.

Ms. Gupta has also led broad-ranging and robust enforcement and education efforts to combat hate crimes, including the first-ever prosecutions under the newly enacted Matthew Shepard and James Byrd, Jr., Hate Crimes Prevention Act.

Under her leadership, the Civil Rights Division trained local and Federal law enforcement throughout the country in recognizing, investigating, and proving hate crimes; in educating communities and engaging them in a process of ensuring public safety; and in encouraging better hate crime reporting and data collection.

I would like to close on one other timely credential. As chairman of the Intelligence Committee, I have meticulously chronicled the corrosive effects of disinformation and foreign interference into our elections—something the Presiding Officer is also a national leader on.

Ms. Gupta has been a leading voice for election integrity, thoughtfully and firmly engaging social media platforms to address disinformation on their platforms, as well as voter suppression, hate, division, and violence.

Among the many important roles the Department of Justice has right now, securing our democracy itself is surely near the top of the list.

Vanita Gupta is a person of extraordinary ability. She has the right experience for this role, and I am honored to support her in her nomination today and hope that later today, we will get broad bipartisan support to move forward that nomination.

COVID-19 HATE CRIMES ACT

Mr. President, this may be a transfer to a second subject, which actually goes a little bit in concert with talking about Vanita Gupta, and that is rising in support of the COVID-19 Hate Crimes Act and the Jabara-Heyer NO HATE Act.

During the COVID-19 pandemic, our Nation has witnessed a surge in racism, xenophobia, and violence against Asian Americans and Pacific Islanders. In fact, between March of last year and February of this year, there were near-

ly 3,800 hate incidents targeting Asian Americans. It should go without saying that these actions have no place in our communities.

To address this spike in anti-Asian rhetoric and hate crimes, we must stand in solidarity with the AAPI community, and we must act against these heinous crimes. The COVID-19 Hate Crimes Act helps address this crisis head-on.

This bill, very simply, requires Attorney General Garland to designate a coordinator within the Department of Justice to expedite, review, and facilitate reporting of COVID-19 related hate crimes. Further, it requires the DOJ to issue guidance to State and local law enforcement, to equip them with the tools needed to deal with the disturbing surge in incidents targeting the AAPI community.

It is tragic but not surprising that hate crimes in America have always been critically underreported. In fact, reports released by the Department of Justice in recent years suggest that the majority of hate crimes are not even reported—not even reported.

Our current patchwork system, paired with inconsistent reporting and resources, guarantees that many instances of hate-related violence and crimes go uncounted. Not only does this mask the true scale of hate incidents across our Nation, it also means that investigative resources and support structures may not be available to victims who need it.

This problem can be exacerbated by cultural and language barriers and made even worse by the pandemic, which has made it more difficult for folks to get connected with reporting mechanisms or useful resources. Fortunately, the COVID-19 Hate Crimes Act seeks to address these challenges by providing a clearinghouse for these cases.

Over the past decade, our Nation has seen a steady rise in hate crimes. Groups and individuals targeting minority and religious groups have increasingly perpetrated sickening acts of violence fueled by hateful ideologies.

We saw that here on January 6. We also saw it earlier in my State, in Virginia. In Charlottesville, back in 2017, we saw this hate and violence on our streets when a White supremacist drove a car through a group of peaceful protesters, injuring many and killing a young woman named Heather Heyer.

It is critical that we give our law enforcement the tools they need to curb these horrific acts. That is why, on a related item, I am also cosponsor of the bipartisan Jabara-Heyer NO HATE Act. My hope is that it will be offered as an amendment to the COVID-19 bill that we hopefully will be addressing shortly.

This bill modernizes our reporting system for hate crimes so that we can respond to accurate data. It also provides grants to establish hate crime hotlines, to record information about hate crimes, and to redirect victims and witnesses to law enforcement and

local support services as needed. Finally, this bill provides a Federal private right of action for hate crime victims and allows judges to sentence community-specific education and community service. Together, these changes create a new model for addressing these crimes and preventing them from going unreported or unpunished.

Both the COVID-19 Hate Crime Act and the Jabara-Heyer NO HATE Act are straightforward pieces of legislation that give victims and law enforcement officers the tools they desperately need to tackle the increasing prevalence of hate incidents in our country. I hope that we move quickly on both these pieces of legislation in major bipartisan fashion.

I yield the floor.

The PRESIDING OFFICER (Mr. KING). The Senator from Arkansas.

NOMINATION OF VANITA GUPTA

Mr. COTTON. Mr. President, Vanita Gupta is President Biden's nominee to be Associate Attorney General. She is unfit for that role. She is unfit because of her radical view that every single American and every single institution in the United States is inherently racist. She is unfit because she lacks the temperament to do the job, as evidenced by her relentless attacks on the integrity and character of judges and Senators alike, seemingly anytime she had a mere disagreement with them. She is certainly unfit based on her attempts to mislead the Senate in her Judiciary Committee hearing.

Ms. Gupta has been before the committee many times as a partisan advocate. There is nothing wrong with that, but her past appearances do give us a glimpse of what she believes when she isn't seeking our votes for confirmation.

Less than a year ago, June of last year, she came before the Senate Judiciary Committee to testify on police reform. When she was asked "Do you believe all Americans are racist?" she replied under oath "Yes, I do." Think about that. The person nominated by Joe Biden to oversee, among other things, the Federal Government's civil rights enforcement says that she believes every single American is racist.

This preposterous idea that anyone and everyone is inherently racist is at the core of the pernicious ideology pushed by the left called "critical race theory." But this position was not an anomaly, a misstatement, or a new position for Mrs. Gupta. In 2005, she published an article in the *Fordham Law Review* on what she called "Critical Race Lawyering." In that article, Ms. Gupta argued that "the rule of law" and "equal justice for all" and "equal protection" aren't the great bulwarks of our liberty, aren't the single achievements of our Republic and our constitutional form of government, but instead "code words"—that is what she called them—for some kind of twisted racism. Anyone who thinks that the rule of law or equal justice for all or

equal protection are simply “code words” for racism is unfit for any position in our government but especially a position of leadership in the Department of Justice.

The concerns with Ms. Gupta’s nomination are not limited to extreme views on these topics. Ms. Gupta has made a career over the last few years on social media attacking the character and integrity of Federal judges, judicial nominees, and Members of the Senate. She accused four different jurists currently on the Supreme Court of being liars, extremists, “dangerous,” or “opposed to civil and human rights.” She must have had a macro; she just hit a shortcut button that said “opposed to civil and human rights.”

By my count, she has leveled incendiary attacks on the integrity and character of around 50 currently sitting Federal judges. It could be more. I may have lost count when it got so high. I asked her about these attacks. While she said during her hearings that she “regrets” some of her rhetoric, she steadfastly refused to renounce these attacks on those judges.

Ms. Gupta has leveled similarly caustic comments against Members of this body, posting online that dozens of Members of the Senate are—you guessed it—“opposed to civil and human rights.” She accused one of our colleagues of being “a disgrace,” another of being a “hypocrite,” and another of “failing her constituents.” At one point, she commented: “How many of us are done with SUSAN COLLINS’s concerns?”

I want to be clear. Disagreement with or even deep dislike for Members of the Senate is not disqualifying for any position in the Federal Government. People are entitled to have their opinions. They are entitled to have their political views. But honestly, the Associate Attorney General of the United States must be able to effectively represent the United States in court while also working with Congress on important issues. It might be hard to represent the United States in court when you have accused dozens of Federal judges of being “opposed to human and civil rights” or being a “disgrace” or a “liar.” Likewise, I wonder what Senator COLLINS thinks about Vanita Gupta being done with her concerns.

Perhaps most concerning, though, is that Ms. Gupta repeatedly misled the Judiciary Committee under oath. Every single Republican member of the Judiciary Committee joined a letter on March 23 outlining some of her most blatant misrepresentations that she made during her hearing, and we asked the chairman of the committee for a second hearing. That request was promptly refused.

Mr. President, I asked unanimous consent that the March 23 letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,

Washington, DC, March 23, 2021.

Hon. RICHARD DURBIN,
Committee on the Judiciary,
U.S. Senate, Washington, DC.

DEAR CHAIRMAN DURBIN: On March 9, the Senate Judiciary Committee held a hearing to consider the nominations of Lisa Monaco, nominee to be Deputy Attorney General of the United States, and Vanita Gupta, nominee to be Associate Attorney General of the United States. While under oath, Vanita Gupta misled the Committee on at least four issues: (1) Her support for eliminating qualified immunity; (2) her support for decriminalizing all drugs; (3) her support for defunding the police; and (4) her death penalty record. Unfortunately, in her responses a week later to our written questions, Ms. Gupta was no more forthcoming. In some cases, she doubled down on her misleading statements from the hearing, and in others she refused to answer altogether. In “response” to scores of our questions, she merely copied-and-pasted the same inapplicable, general statements for one question after another.

We urge you to immediately schedule a second hearing with Ms. Gupta so that she can answer for her misleading statements, and for her refusal to respond to our written questions. Indeed, Ms. Gupta herself asked for similar measures in the context of past nominees. On November 20, 2017, Ms. Gupta issued an open letter in which she wrote that, as a result of what she described as “credible evidence” that two nominees were not forthcoming with the Committee, “Chairman Grassley must put politics aside and bring back both nominees before the committee so that they can be asked about their truthfulness under oath. Failure to do so would abdicate the independent role of the Senate . . . If the Senate Judiciary Committee is going to be taken seriously by this and future administrations, it must demand that nominees accurately respond to questions[.]”

Ms. Gupta’s misleading statements to this Committee include, at minimum:

1. HER SUPPORT FOR ELIMINATING QUALIFIED IMMUNITY

During the hearing, Ms. Gupta was asked whether she supported eliminating the doctrine of qualified immunity. She responded that she doesn’t “support[] elimination one way or another.”

In June 2020, Ms. Gupta testified before this Committee that “Congress should end qualified immunity in Section 1983 claims.”

When pressed about her June 2020 testimony before this Committee, Ms. Gupta claimed those were not her own opinions, but that she had been merely “representing the consensus views of the Civil Rights Coalition at the Leadership Conference.” But in June 2020, she said, “I am pleased” (not that the Leadership Conference was “pleased”) that reforms she had recommended, including the elimination of qualified immunity, were “included in the newly introduced Justice in Policing Act of 2020.”

Additionally, during the June 2020 hearing, when one of the other witnesses said that he believed qualified immunity should be eliminated, Ms. Gupta added, “I agree.”

2. HER SUPPORT FOR DECRIMINALIZING ALL DRUGS

When asked whether she advocates for “decriminalization of all drugs,” Ms. Gupta answered, unequivocally, “No, Senator, I do not.”

Ms. Gupta doubled down on this misleading statement in response to written questions, writing that she had “never advocated for the decriminalization of all drugs.”

In a September 2012 op-ed in the *Huffington Post*, Ms. Gupta wrote that “States

should decriminalize simple possession of all drugs, particularly marijuana, and for small amounts of other drugs.” This directly contradicts Ms. Gupta’s answers.

A member of the Committee pressed Ms. Gupta for explanation during the hearing, and referred to the September 2012 op-ed. Ms. Gupta answered, “Senator, I have advocated, as I believe President Biden has, for decriminalization of marijuana possession.”

Later in the hearing, another member of the Committee followed up on the question by reading aloud Ms. Gupta’s statement from the 2012 op-ed, to which Ms. Gupta responded that she had only been “speaking for [her] position today.” But her answer had specifically referred to her past-tense advocacy when she stated she had only advocated for decriminalization of marijuana possession, and her written answers a week later explicitly claimed that she had “never” advocated for decriminalizing possession of all drugs.

3. HER SUPPORT FOR DEFUNDING THE POLICE

During the hearing, Ms. Gupta repeatedly stated that she did not “support defunding the police.” She added, “I have, in fact, spent my career advocating where it’s been necessary for greater resources for law enforcement.” She later added that she had advocated for greater law enforcement resources “at every point in [her] career.”

These statements directly contradict her sworn testimony before this very Committee on June 16, 2020, where she said that leaders must “heed calls . . . to decrease police budgets and the scope, role, and responsibility of police in our lives.”

When pressed by a member of the Committee that her statement in June 2020 was, by any measure, advocating for defunding the police, Gupta responded that she “disagree[d]” with that characterization. But Ms. Gupta used the same characterization while speaking on a webinar just two days after her June 2020 testimony, saying, “Localities have been overspending on criminal-justice system infrastructure and policing and divesting in housing, education, jobs, and healthcare. Some people call [changing this] ‘defunding the police,’ other people call it ‘divest/invest.’”

The *Washington Post*—the same outlet that you cited in defense of Ms. Gupta’s nomination during a March 10 hearing on another topic—correctly noted that Ms. Gupta’s June 2020 statement was “exactly what ‘defunding’ the police is all about. Now Gupta says she has never supported the idea.”

A contemporaneous article by Reuters on June 8, 2020, also noted that “defund the police” was a term “being used by activists to propose eliminating or cutting spending on police departments, often the largest expense for municipalities, and instead funneling the money to programs for education, social welfare, housing, and other community needs.”

Any claim that Ms. Gupta was not aware that the policies she espouses are what other activists mean by “defunct the police,” directly contradicts how she described her own policies just months ago.

4. HER DEATH PENALTY RECORD

In response to a question about her prior statements against the death penalty, Ms. Gupta said that, while she had been an opponent of the death penalty, “I also know how to enforce the law. And I did so when I was in the Justice Department before, when Dylann Roof committed the heinous act against nine parishioners at the Charleston [Emanuel African Methodist Episcopal] Church. And that prosecution and conviction happened under my watch.”

Ms. Gupta’s statement suggested that she had supported the application of the death

penalty in the Dylann Roof case because it met the requirements under the law, despite her personal feelings. That was not the case. Contemporaneous reporting by the Washington Post in 2016 noted that Attorney General Loretta Lynch approved prosecutors seeking the death penalty for Dylann Roof “over the objections of some advising her, including . . . Vanita Gupta, the head of the Justice Department’s civil rights division.”

What Ms. Gupta said was that the “prosecution and conviction” of Dylann Roof, including the application of the death penalty, “happened under [her] watch.” She misled Senators by neglecting to say that it also happened over her objection.

When asked about these contradictions in written questions, Ms. Gupta found a new way to avoid answering: She said it “would not be appropriate . . . to discuss” what she did at the Department of Justice, either on the Dylann Roof case “or on any other matter [she] worked on during [her] prior government experience.”

Further, there remain significant questions about Ms. Gupta’s temperament, about which she refuses to answer even simple questions. During her hearing, multiple members of this Committee asked her about her harsh rhetoric and her attacks on the character and integrity of sitting federal judges and members of the Senate. In response, she told the Committee that she “regrets” her rhetoric. Yet, in responses to written questions after the hearing, Ms. Gupta repeatedly and notably refused to renounce her previous attacks, such as her prior assertions that four different jurists on the Supreme Court are liars, extremists, “dangerous,” or “opposed to civil and human rights.” Instead, in response to written questions from multiple members about her attacks on senators or the federal judiciary, Ms. Gupta chose to copy-and-paste more than 40 times a generalized statement that she has either “tremendous respect” or “im-mense respect” for judges or for members of the United States Senate.

Our call for a second hearing is not due to Ms. Gupta’s substantive views—either her longstanding views or her new ones claimed only since her nomination. It’s about her lack of candor with the Committee. If her answers at the hearing were misleading about her record, and in written questions she shifted her answers again or refused to answer at all, the Senate Judiciary Committee cannot perform its role to consider her nomination.

The position of Associate Attorney General is the third-ranking position in the Department of Justice. The Associate Attorney General oversees, among other things, the civil litigation and enforcement apparatus of the United States. It is critical that the Associate Attorney General be someone who can be trusted to tell the truth. Further, the Senate must be able to trust that the testimony of public officials under oath will be truthful and complete.

Unfortunately, this is not the case with Ms. Gupta, and the Committee should immediately schedule a second hearing.

Sincerely,

Chuck Grassley, Ranking Member, Committee on the Judiciary; John Cornyn, U.S. Senator; Ted Cruz, U.S. Senator; Josh Hawley, U.S. Senator; John Kennedy, U.S. Senator; Marsha Blackburn, U.S. Senator; Lindsey O. Graham, U.S. Senator; Michael S. Lee, U.S. Senator; Ben Sasse, U.S. Senator; Tom Cotton, U.S. Senator; Thom Tillis, U.S. Senator.

Mr. COTTON. Finally, Mr. President, I have to observe something independent of Ms. Gupta herself. The dis-

charge petition filed today requires that there has been a valid, tied vote in committee. That is the rule we all agreed to in the beginning of this Congress. Yet Ms. Gupta still has not received a valid vote in the committee. In fact, during the markup of her nomination, just minutes into my 15-minute remarks, the chairman of the committee cut off my remarks midsentence and called for a vote, in violation of committee rules. I guess somehow allowing members to finish their statements, which are guaranteed under the committees rules, had somehow become inconvenient for the scheduling preferences of our Democratic colleagues, or perhaps the committee’s meeting had been mismanaged and they were worried about the 2-hour rule. It wasn’t just me. My remarks were interrupted. At least one Republican Senator didn’t have an opportunity to speak at all. The Democrats simply broke the rules and voted out Ms. Gupta’s nomination—not in accordance with Judiciary Committee rules.

There must be consequences when the Democrats break the rules. Here is what the consequences are going to be in this case. I will refuse consent or time agreements for the nomination of any U.S. attorney from any State represented by a Democrat on the Judiciary Committee. What we need to have is a valid vote in committee in accordance with the committee rules, not ramming through this nomination today.

Today we are faced not only with the choice of whether Ms. Gupta is fit to be the Associate Attorney General, we are also faced with the question of whether to legitimize yet again the partisan bulldozing of the Senate’s rules if those rules are even marginally inconvenient, even in committee session. Going down this path is not going to improve the Senate.

I will be voting no, and I urge my colleagues to do the same.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Mr. President, I ask unanimous consent to be allowed to talk as in morning business for up to 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

AFGHANISTAN

Mr. REED. Mr. President, President Biden has decided to withdraw all forces from Afghanistan by September 11, 2021. I believe this decision was one of the hardest President Biden will ever make.

As Washington Post columnist David Ignatius pointed out, “Biden’s military and intelligence advisers had presented him with three unpleasant alternatives: leave May 1 as previously agreed, even though this would probably mean the fall of the Kabul government and a return to civil war; stay for a limited period, perhaps negotiated with the Taliban, which would delay

its eventual takeover; or stay for an undefined period, which could mean a long continuation of what is already the United States longest war.”

In effect, there were no good choices. The President exercised his best judgment to endorse a path that is most likely to protect the national security interests of the United States.

I believe there were several factors over 20 years of conflict in Afghanistan that shaped the President’s decision. The most critical miscalculation over the past 20 years was the Bush administration’s decision to invade Iraq.

We took our eye off the ball in Afghanistan at a crucial time and instead pursued a war of choice in Iraq. The attacks by al-Qaida on September 11 galvanized the world. The authorization for use of military force passed the Senate 98 to nothing, while the French newspaper *Le Monde* proclaimed, “We are all Americans.” Most notably, for the first time, NATO invoked article 5 of its charter, which calls upon its members to take action on behalf of any member nation which is attacked. The world was with us.

But before we could really gain momentum in Afghanistan, the United States diverted to an unnecessary war of choice in Iraq. As journalist Steve Coll wrote in his definitive history of the war in Afghanistan, months after 9/11, “On November 21, 2001, then Central Commander Tommy Franks, who was planning our operations against Tora Bora, took a call from Donald Rumsfeld, who ordered him to start working on the plan for the invasion of Iraq. Rumsfeld told him to have something ready within a week.”

As a consequence, General Franks’ attention was being forced elsewhere. As journalist Susan Glasser wrote in the Washington Post, in the Battle of Tora Bora, “corrupt warlords allowed bin Laden to escape, while special forces pleaded with the Pentagon to let them get in the fight.” As we now know, Osama bin Laden, the leader of al-Qaida and the mastermind of the 9/11 attacks, was not captured for another decade. This decision wasted a period when the Taliban was routed and the Afghan population was welcoming.

More recently, President Biden inherited a flawed agreement from the Trump administration. Known as the Doha agreement, it required the United States, its allies, and coalition partners to withdraw all military forces by May 1, 2021. Nondiplomatic civilian personnel, private security contractors, trainers, and advisers were also required to leave. In effect, the entire international presence that has been the foundation for almost two decades of the Afghanistan effort was to disappear on May 1. In exchange, the Taliban agreed not to attack the United States or its allies and promised not to allow “other individuals or groups, including al-Qaida, to use the soil of Afghanistan to threaten the security of the United States and its allies.”